

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PATRICIA FORTLAGE,

No C-08-03406 VRW

Plaintiff,

ORDER

v

HELLER EHRMAN LLP, HELLER EHRMAN
LONG-TERM DISABILITY PLAN, UNUM
LIFE INSURANCE COMPANY,

Defendants.

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The parties have filed what appear to be cross-motions under FRCP 52. As the court understands these motions, the parties agree to a bench trial on the administrative record in which the court may make credibility determinations to make the findings required under FRCP 52. See Kearney v Standard Ins Co, 175 F3d 1084, 1095 (9th Cir 1999).

1 If this is correct, the parties should confirm to the
2 court in advance of the June 4, 2009 hearing. In that case, the
3 court will VACATE the June 4 hearing and take the matter under
4 submission. If this is not correct, the parties should be prepared
5 to discuss how they wish to proceed.

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7 IT IS SO ORDERED.

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10 VAUGHN R WALKER
11 United States District Chief Judge
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